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SPECIFIC GROUPS AND INDIVIDUALS

MIGRANT WORKERS

Report of the Secretary-General on violence against women migrant workers

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Introduction

1. In paragraph 8 of its resolution 1998/17, the Commission requested the Secretary-General to submit to it at its fifty-sixth session a comprehensive follow-up report on the problem of violence against women migrant workers, taking into account the views of States and based on the expertise of and all available information from authorities and bodies within the United Nations system, intergovernmental organizations and other sources, including non-governmental organizations. The present report is submitted in accordance with that request.

2. It should be recalled that in its resolution 52/97, the General Assembly requested the Secretary-General to submit to the General Assembly at its fifty-fourth session a comprehensive report on the problem of violence against women migrant workers. In accordance with that resolution, the General Assembly had before it at its fifty-fourth session a report by the Secretary-General (A/54/342) reviewing all recent initiatives and measures taken by States and organizations of the United Nations system. The present report will not duplicate information already submitted to the General Assembly in document A/54/342, which is being made available to the Commission at its present session.

3. Pursuant to paragraph 8 of Commission resolution 1998/17, the Secretary-General addressed requests for information to Governments, intergovernmental and non-governmental organizations concerned, and United Nations bodies.

4. As of 30 November 1999, replies had been received from the Governments of Canada, Japan, the Russian Federation and the Sudan.

5. Replies were also received from the Council of Europe, the International Criminal Police Organization, the International Organization for Migration, the Pan American Health Organization of the World Health Organization, the United Nations Interregional Crime and Justice Research Institute, the United Nations Office for Drug Control and Crime Prevention and the World Food Programme.

6. The present report contains a summary of the substantive replies received. Any additional replies will be reproduced in an addendum to the present report.

I. THE ISSUE OF VIOLENCE AGAINST WOMEN MIGRANT WORKERS

7. In the framework of an expert group meeting on temporary labour migration of women, co-organized, in August 1999, by the International Organization for Migration and the United Nations International Research and Training Institute for the Advancement of Women, it was noted that there is increasing evidence that globalization is favouring migrant labour and that women, mostly in developing countries, are entering into this type of labour engagement in ever-increasing numbers as a means of ensuring the subsistence of their families. In some regions - notably Asia - there has been a "feminization" of labour migration. As a response to the restructuring of the global economy and the division of labour, migration patterns are diversifying in scope and duration and movements of permanent settler and long-term labour are

decreasing. Moreover, the increase in the number of women migrant workers is giving rise to temporary short-term migration. More and more, migrants, in particular, women migrants, are displacing themselves individually on a short-term basis and maintaining their permanent place of residence and family obligations back home.

8. Because of their subordinate status both as migrants and as women, female migrant workers are highly vulnerable to exploitation and ill-treatment. Many migrant women work without official work contracts, or if such contracts exist, they are on unfavourable terms - low salaries, no insurance, no control over working hours. In some cases, the migrant women's passports are withheld by the employer, which represents a restriction of their freedom of movement.

9. Migrant women also can lose, where they had it in their own count, the ability to participate in decision-making at the community level, either because of a lack of traditional participatory mechanisms in the host country or because of their lack of preparation to adapt to its participatory patterns.

10. Access to health care, in many countries, is linked to legal status. Such policies leave migrant women vulnerable to poorer health outcomes. Migrant women are also particularly vulnerable to psychological stresses, divergent sets of cultural expectations, marginalization in the host society and in the labour market and the double burden of family and work are but a few examples. In addition, migrant women are particularly susceptible to physical and sexual abuse during travel, in camp situations, or in the countries of destination.

11. Many women who migrate for promised jobs in domestic service, catering or entertainment find themselves tricked into prostitution. Since they are often illegal or undocumented immigrants, these women are vulnerable to abuse.

12. In 1994 already, the Special Rapporteur on violence against women discussed the types of violence suffered by women migrant workers in her preliminary report to the Commission (E/CN.4/1995/42). These ranged from inhumane working conditions, such as long working hours, no days off and non-payment of wages, to starvation, beatings and rape. Unskilled workers, especially in domestic service, experienced greater and different kinds of violence than other women. The Special Rapporteur noted that a variety of measures had been undertaken to address the problem. Sending countries had unsuccessfully tried to restrict migration. Receiving countries, which had little interest in regulating the working conditions of low-paying, undesirable jobs, had not been successful at inducing migrants to become legal. The Special Rapporteur suggested that international instruments be used to reinforce the duty of sending countries to apprise citizens of their rights and the duty of receiving countries to ensure human rights protection to all people within their borders.

13. The Beijing Platform for Action called for the recognition of the vulnerability of women migrants, including women migrant workers, to violence and other forms of abuse. It also called for the establishment of linguistically and culturally accessible services for all migrant women and girl victims of gender-based violence.

II. MEASURES TAKEN BY STATES TO ADDRESS VIOLENCE AGAINST WOMEN MIGRANT WORKERS

A. Canada

14. The Government of Canada stated in its reply that it had a long-standing commitment to promoting respect for the human rights of women and girls, to protecting the rights of migrants generally, and to undertaking efforts directed towards the elimination of violence against women and girls.

15. In Canada, there are two types of legal entry: permanent and temporary. Selected immigrants can enter and remain in the country as permanent residents, whereby they are accorded significant legal protection and access to social services and, in due course, have the opportunity to apply for citizenship. Canada is one of a few countries in the world with an immigration programme of this sort. Visitors may also enter Canada as temporary foreign workers, students or tourists, which allows them to come to the country for specified periods to perform specified jobs for specified employers, to study for a specified period or to visit for up to six months. Persons with temporary status are also accorded the same basic rights as permanent residents.

16. Persons who are in Canada temporarily or who have not yet become permanent residents (including women) are eligible to receive health care services in most provinces and territories (temporary workers, however, may be subject to certain conditions such as a specified waiting period). Similarly, all employees have certain legal rights respecting fair working conditions and fair treatment under provincial/territorial employment standards legislation (such as paid vacation, overtime pay, benefits). Both permanent and temporary workers (assuming that they are eligible to work in Canada and subject to the conditions of their work permit) are also eligible to receive employment services offered in local communities. This can include access to employment counselling and job finding services, employment training, wage subsidies, self-employment assistance and work experience through job creation projects. They may also be eligible for financial benefits under the federal Employment Insurance Fund. In addition, permanent residents may be able to avail themselves of other benefits provided under the social safety net (welfare, pensions, old age benefits and so forth).

17. The Criminal Code contains several offences, such as assault, criminal harassment, sexual assault and procuring, that could apply in cases of violence against women workers. In addition, several amendments have been made to the Criminal Code since 1994 to enhance protection from violence for women. These amendments include provisions making peace bonds (protective court orders) easier to obtain and more effective and clarifying that intoxication is not a defence in crimes such as assault and sexual assault. Procedures based on a pro-arrest, pro-charge and pro-prosecution policy have also been developed and implemented by the provincial governments, which have responsibility for enforcement of the criminal law.

18. Commission on Human Rights resolution 1998/17 invites Governments to undertake further research on the causes and consequences of violence against women migrant workers. In 1999, the departments of Citizenship and Immigration Canada and Status of Women Canada jointly funded a research project on violence and abuse against live-in-caregivers in the

workplace. The results of this project will provide an overview of current knowledge and research gaps on violence among domestic workers, with a focus on migrants who have entered Canada through the Live-In-Caregiver Programme.

19. Resolution 1998/17 also encourages States to consider signing and ratifying the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families. While the Convention's objective of extending the protection of domestic human rights law to migrant workers is laudatory, the Convention does not reflect the Canadian situation in that those persons covered by the Convention generally enter Canada as permanent residents. The Canadian Charter of Rights and Freedoms provides a much broader range of rights and freedoms than those provided for in the Convention and applies to all persons in Canada, regardless of their immigration status. The Convention includes extraterritorial obligations that States could not validly fulfil under existing international law.

20. Resolution 1998/17 encourages States to consider signing and ratifying the Slavery Convention of 1926, which Canada did in 1928.

21. Canada would like international instruments on migrants workers to take into account the integration of migrants into the society of the receiving State, and to acknowledge that migrants who have the right to permanent residence in countries of destination are in a different situation from those who migrate temporarily. There is also a need to acknowledge that migrant workers are subject to abuse in sending, receiving and transit countries: the human rights of migrants need to be protected in all States concerned.

22. International programmes: the Canadian International Development Agency (CIDA) supports a number of programmes in the area of violence against women, including women migrant workers. Gender equality is a cross-cutting theme for CIDA programming. While a number of community development projects which CIDA supports deal indirectly with violence against women migrant workers, the following is a sample of projects which deal with this issue directly.

23. South East Asia Fund for Institutional and Legal Development (SEAFILD): This fund is a CIDA bilateral project which provides support in the South-East Asian region in the areas of governance, the promotion and protection of human rights, the rule of law and the development of civil society. Since its inception, over 60 sub-projects have been funded. Two of these projects have concentrated on the plight of migrant workers and the trafficking of women:

(i) Illegal Labour Movements: Trafficking in Women, with the Mekong Regional Law Centre acting as partner organization. The participating countries are Thailand, Viet Nam, Cambodia and Laos. The total value of the sub-project is Can$ 200,000;

(ii) The Asian Regional Training Program on Migrant Workers (Phase I and II) has as its partner organizations the Canadian Human Rights Foundation and the Ateneo Human Rights Centre in Manila. The total value of this sub-project is Can$ 172,119.

24. Philippines Gender Fund. Within this fund, there are sub-projects which specifically identify violence against women as a project issue. Of the total amount disbursed for sub-project activities (Can$ 352,483), approximately one third was committed to these specific sub-projects. Activities focusing on violence against women migrant workers include:

"Consultation workshop among NGOs addressing issues and problems of prostitution", organized by the NGO International Coalition Against Trafficking in Women (Can$ 18,440);

"The impact of Government policies and programmes on the reintegration process of women migrant workers who have survived physical and sexual violence abroad (Can$ 16,357);

"Violence Against Women Migrant Workers: a scoreboard on performance of the Philippines Government", implemented by the NGO Network Opposed to Violence Against Women Migrants (Can$ 27,571).

25. Shakti Gender Equity Project - Sri Lanka. One sub-project activity is "Advocacy and lobbying campaign on behalf of migrant workers", which focuses on the preparation of a file of experiences of violence reported by women migrant workers. The file will be presented to the Special Rapporteur on violence against women. It is expected that this activity will help generate public awareness on issues related to gender-based violence from an international human rights perspective (Can$ 21,000).

B. Japan

26. The legal provisions and measures taken by the Government of Japan in the field of violence against women migrant workers are as follows.

1. Legal Provisions

(a) Penal Code

27. Japan applies the same legal provisions to violence against women migrant workers as to violence against its own nationals. As for violence endangering life, physical integrity and freedom of women migrant workers, articles 199, 204, 205, 208, 220 and 223 of the Penal Code have provisions making murder, bodily injury, bodily injury resulting in death, assault, unlawful arrest and confinement, and compulsion, etc., subject to penalty. As for sexual violence, articles 176 and 177 of the Penal Code have provisions making forcible indecency, rape, etc., subject to penalty.

28. As for psychological violence, article 222 of the Penal Code has a provision making intimidation subject to penalty.

of 1960) or other documents designated by a government order as the documents which employers would normally request the job seekers to display for their identification. Same hereinafter) of the employees entertaining the customers who have been charged with an unreasonably high amount of liabilities in consideration of their ability to repay.

2. Measures

34. The human rights organs of the Ministry of Justice, comprised of the Human Rights Bureau and its subsidiary bodies (the Legal Affairs Bureau and the District Legal Affairs Bureau and their branches), as well as volunteer human rights officers authorized by the Minister of Justice, will investigate as a case of human rights violation violence against women that comes to light through a personal statement or through human rights counselling. As a result of the investigation, if violence is found to have in fact occurred or in cases where violence is continuing, the human rights organs have a system to rehabilitate the victim through such measures as making the perpetrator realize the importance of respect for human rights and attempting to stop acts of violence or prevent their recurrence.

35. The human rights organs also actively develop promotional activities, such as seminars and talks, television and radio programmes, the dissemination of pamphlets and leaflets, in order to make the general public recognize the importance of respect for the human rights of vulnerable groups, including women, and to increase awareness of human rights. These activities contribute to the prevention of human rights related incidents, including violence against women migrant workers.

36. In addition to the above, the Legal Affairs Bureau and the District Legal Affairs Bureau and their branches set up guidance rooms at permanent centres, besides sometimes holding counselling in department stores and public offices providing wide opportunities for counselling on human rights issues.

37. As for counselling for foreigners living in Japan, the Legal Affairs Bureau and the District Legal Affairs Bureau conduct counselling all over Japan for foreigners on human rights issues, using interpreters.

38. Although not within the concept of "women migrant workers", Japan takes the following measures on violence against foreign women entertainers who are in Japan for relatively short periods of time with the residence status of "Entertainer".

39. As has been mentioned, human rights violations such as work under poor employment conditions, forced prostitution, etc. exist for those entertainers performing in bars and cabarets, etc. On the basis of the results of research on foreign entertainers conducted all over Japan, the Ministry of Justice revised part of the Ministerial Ordinance to Provide for Criteria pursuant to article 7, paragraph 1 (2) of the Immigration Control and Refugee Recognition Act to allow for proper control over foreign entertainers. As a result of this revision, the number of foreigners entering with the residence status of "Entertainer" decreased drastically for a time.

C. Russian Federation

40. Government statistics for 1998 show that there were 22,202 migrant women holding official work permits in the Russian Federation, accounting for 9 per cent of all foreign migrant workers. Their age structure was as follows:

16-17	0.5 per cent,
18-29	25.4 per cent,
30-39	37.5 per cent,
40-49	28.6 per cent,
50-54	5.3 per cent,
55-59	1.7 per cent;
over 60	1 per cent.

41. Two hundred and nine female migrants were working for individual employers; the rest were employed by corporate entities.

42. A total of 2,440 female citizens of the Russian Federation found work abroad in 1998 through officially registered and licensed Russian employment agencies (8.2 per cent of all Russian migrant workers). Most of them (76 per cent) were aged between 18 and 39. No complaints of violence, either against Russian women legally working abroad or against foreign women officially employed in the Russian Federation, have been received by the Federal Migration Service, the coordinating body for labour migration, or the law-enforcement agencies.

D. Sudan

43. The national laws and legislation guarantee everything provided for in international instruments such as the Vienna Declaration and Programme of Action of 1993 and there are no violations of the rights of female migrant workers and women. The provisions of these local legislative enactments are as follows:

44. The Labour Act of 1997

Article 104 refers to terrorism and harassment and stipulates as follows:

No person shall compel another person to perform or refrain from an act which that person has a legal right to perform or refrain therefrom by:

(a) Using violence or provocation, humiliating that person, his wife or his children or damaging his property;

(b) Following that person from place to place;

(c) Concealing any tools, clothes or property owned or used by that person or preventing him from using them.

(d) Observing or harassing any person at his home or any other place in which he is residing or on any road leading to that home or place.

45. Article 19 refers to the conditions of employment of women as follows:

> "Women shall not be employed in types of work which are hazardous, which require considerable physical exertion or which are harmful to health, such as the carrying of heavy loads, work performed underground or under water and work which exposes them to toxic substances or to cold or heat exceeding the limits which can reasonably be borne by women."

46. Article 20 specifies the working hours of women as follows:

> 1. Women shall not be employed from 10 p.m. to 6 a.m. except on administrative, professional and technical work or any work in connection with social and health services.
>
> 2. Notwithstanding the provisions of paragraph 1 above, the competent authority may, after consultation with the Committee, permit any category of women to work at night, in the public interest, on the conditions set by the Committee.

47. There are many legislative enactments that provide adequate protection for women in general and the law does not discriminate between national and migrant working women in regard to the application of the Labour Act of 1997.

48. The Immigration and Passports Act of 1993

Articles 9-13 of this Act regulate the entry and departure of foreigners in accordance with the official procedures. Consequently, the residence of foreigners depends on their official papers and documents.

It is evident that the Sudan's position is extremely positive in regard to the employment of women and ensures them a fully appropriate working environment, as required by international instruments. No distinction is made between migrant and national women and the statistics have not recorded any act of violence against women in the Sudan.

III. ACTION TAKEN BY UNITED NATIONS BODIES, SPECIALIZED AGENCIES AND INTERGOVERNMENTAL ORGANIZATIONS

49. This section summarizes substantive information submitted to the Secretary-General.

A United Nations bodies and specialized agencies

1. United Nations Office for Drug Control and Crime Prevention and United Nations Interregional Crime and Justice Research Institute

50. Both organizations are committed to and actively working on the drafting of protocols against migrant smuggling and on the issue of trafficking in persons. The United Nations Interregional Crime and Justice Research Institute (UNICRI) is currently implementing, in collaboration with the United Nations Office for Drug Control and Crime Prevention (ODCCP), a global programme against trafficking in human beings. Violence against women, including women migrants and women migrant workers, is an integral part of the Global Programme. Also, in the frame of the Global Programme, UNICRI is finalizing a report entitled "Rapid assessment on trafficking in human beings in the Philippines". This "assessment" will be considered in the report of the Secretary-General on the traffic in women and girls submitted to the Commission at its present session.

51. The ODCCP approach to smuggling and trafficking is the criminalization and punishment of criminal acts of trafficking and smuggling and the protection of individual victims of such trafficking, migrants or otherwise. The Global Programme against Transnational Organized Crime, of which it is part, takes full account of the exploitation of women migrants and women migrant workers in organized crime operations.

2. World Food Programme

52. In Cambodia, WFP provides support to institutions in Phnom Penh which rescue girls from possible exploitation and violence when they are trafficked, especially at a young age.

B Council of Europe

53. Over the past years the Council of Europe has been looking at migration in a gender perspective - especially in view of the fact that immigration in Europe is becoming increasingly female. A Joint Specialist Group on migration, cultural diversity and equality between women and men was set up in 1994 by the Steering Committee for Equality between Women and Men (CDEG) and the European Committee on Migration (CDMG). Through hearings with migrant women, conferences and studies, the group tried to identify the specific problems which confront migrant women, including violence. The reports submitted after the various meetings considered more the situation of women as migrants and not as migrant workers. However, the specific situation of women migrant workers was discussed in the course of the meetings and it was noted that there was an increase in the number of illegal women migrant workers. This illegal status reinforced their vulnerability, deplorable working conditions, violence and sexual abuses.

54. A specialist group on intolerance, racism and equality between women and men, composed of members of CDEG and the European Commission on Racism and Intolerance (ECRI) met in 1996 and 1997. The group, among other things, identified specific forms of racial discrimination and intolerance which women face on the basis of their sex. The group considered more specifically the situation of women migrants - and not of women migrant

workers - and their integration in the host society. This integration was exclusively dependent on the male relatives and their own integration. It was felt that sexism was a form of intolerance and that women were discriminated against because of their sex and their ethnicity.

55. The Council of Europe is also working on the preparation of two draft recommendations from the Committee of Ministers to member States, one on the protection of women and young girls against violence and the other on trafficking in human beings for the purpose of sexual exploitation.

C. International Organization for Migration

56. As already mentioned in the report of the Secretary-General to the General Assembly at its fifty-fourth session, IOM has developed programmes and activities addressed to women migrant workers who are the victims of gender-based violence.

57. IOM is developing language training and cultural orientation services, combined with training of trainers exercises, which build up the capacity of both the migrants and the sending and receiving Governments. In Dhaka, an English language-training programme has been developed for Bangladeshi female nurses seeking employment abroad. A number of women and men - skilled and semi-skilled contract workers - were trained on communication in an overseas working environment and provided with information on their rights and obligations in the host countries. These projects included training of Bangladeshi teachers to enable the continuation of the programmes with Bangladeshi instructors.

58. In Manila, IOM assisted the Overseas Workers Welfare Administration (OWWA) of the Philippine Department of Labour and Employment in the field of skills upgrading, language training and cultural orientation. In partnership with the Policy Research and Resource Centre for Filipino Women Workers, IOM also sponsored the preparation of a Survival Guidebook for Filipino Women Migrant Workers on Rights and Realities of Migrant Labour. The Guidebook, issued in 1997, contains information on basic rights, job contracts, legal provisions under Philippine law, migration realities - including the most commonly reported illegal and abusive practices and violations of human rights - and a section on self-empowerment, including how and when to file complaints. The Guidebook also includes sections on handling communications and language problems and cultural differences.

59. IOM has also organized training courses for over 22,000 migrants from Croatia, Yugoslavia, Kenya and Viet Nam who have been offered permanent residence status in Canada.

IV. CONCLUSION

60. Keeping in mind information submitted by States for the reports to the General Assembly and to the present session of the Commission, it may be noted that although States report on measures to address violence against women, including violence in the workplace, and on measures to assist migrants, including migrant workers, few report on specific measures to address the particular issue of violence against women migrant workers. More extensive information and data are required on the situation of women migrant workers in order to identify concrete strategies.

61. Even though the Special Rapporteur on violence against women has, in her various reports, paid attention to the question of violence against women migrant workers and insisted on the need to take measures to tackle the specific problems of this particular group of migrants, additional attention at the national and international levels would be helpful. The newly appointed Special Rapporteur of the Commission on Human Rights on the human rights of migrants would have a major role to play in examining the particular issue of women migrant workers who are victims of violence.